



US Army Corps
of Engineers.

Nashville District

Special Notice

Public Notice No. 08-40

Date: July 1, 2008

Please address all comments to:
Nashville District Corps of Engineers, Regulatory Branch
3701 Bell Road, Nashville, TN 37214-2660

Subject: Annual Public Notice (PN) for the Tennessee In-Lieu-Fee (ILF) Program

Location: This PN applies to ILF projects within the state of Tennessee including areas in the Memphis and Nashville Districts of the U.S. Army Corps of Engineers.

Reporting Period: Calendar Year 2007

General Information: The ILF program is a fee-based compensatory mitigation option whereby money is paid by a permit applicant to a third party who assumes responsibility to develop and implement compensatory mitigation.

In-lieu-fee arrangements are established between Corps Districts and natural resource management organizations following consultation with other Federal agencies. In Tennessee, the Tennessee Wildlife Resources Foundation (TWRf) provides compensatory stream mitigation through the Tennessee Stream Mitigation Program (TSMP). The TSMP was established via an August 16, 2002, Memorandum of Agreement (MOA). Agencies involved in the development and execution of the MOA include the Tennessee Department of Environment and Conservation, U.S. Army Corps of Engineers (Memphis and Nashville Districts), Tennessee Valley Authority, Environmental Protection Agency, U.S. Fish and Wildlife Service, Tennessee Wildlife Resources Agency, and the Tennessee Wildlife Resources Foundation.

"Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbor Act" was published in the Federal Register on November 7, 2000, (FR Vol. 65, No. 216, November 7, 2000). The guidance states that the Corps will track all uses of ILF arrangements and report those figures by public notice on an annual basis. The guidance also requires ILF programs to submit an annual report for review by the overseeing agencies. The TSMP has submitted

its annual report. The attached tables provide a summary of ILF activities. The complete report can be reviewed at: www.lrn.usace.army.mil/cof/. Information contained in the report satisfies the Corps annual public notice requirements.

The Nashville District serves as the lead district for the ILF program within the state of Tennessee. As the lead district, this public notice is being circulated to notify the public of the availability of the annual account tracking report for ILF programs.

Please be advised the Corps is not seeking public comment on this notice. Questions should be directed to: Marty Tyree at marty.g.tyree@usace.army.mil, 615-369-7514 of the Nashville District or Roger Allan at roger.s.allan@usace.army.mil, 901-544-3682 of the Memphis District.

THE TENNESSEE STREAM MITIGATION PROGRAM



2007 TSMP In-Lieu Fee Status Report

Reporting Period: January 1, 2007 through December 31, 2007



**US Army Corps
of Engineers.**

Table of Contents

Executive Summary	3
Programmatic Accomplishments	3
Project-Related Accomplishments	3
2007 Status Summary	5
Program History	5
TSMP Partnerships	5
TSMP Permitted Impacts Summary	6
TSMP Impact Assignment Summary	6
TSMP Financial Status	7
Project Selection Process	7
Status of TSMP Projects	8
Appendix A	10
Appendix B	12

Executive Summary

Since its inception in 2003, the Tennessee Stream Mitigation Program (TSMP) has made great strides to provide mitigation to offset stream impacts permitted through §404/401 of the Clean Water Act. The TSMP is committed to providing meaningful mitigation on degraded streams to improve in-stream and riparian habitat and overall water quality. Employing principles of natural channel design and process-based methodologies, the TSMP continues to identify and develop restoration and enhancement projects across the state.

As outlined in federal guidance and the Memorandum of Agreement under which the TSMP was established, basic program requirements include: fiscal management, project identification, project development, and project implementation. The TSMP is required to submit annual status reports to the US Army Corps of Engineers (USACE) and the Tennessee Department of Environment and Conservation (TDEC) as well as the Stream Mitigation Review Team (SMRT). At the request of the USACE, the format of these annual reports has been modified for public notice. As such, this report will provide detailed program information from January 1, 2007 through December 31, 2007.

Programmatic Accomplishments

Programmatic accomplishments during 2007 include:

- Accepted the compensatory mitigation responsibility for 27 permitted impacts totaling 34,195 mitigation credit units
- Completed first year annual monitoring for 11 TSMP Restoration and/or Enhancement projects
- Identified and gained SMRT approval for projects totaling approximately 36,824 linear feet. These projects are projected to generate approximately 26,481 mitigation credit units
- Coordinating/funding of statewide regional curve effort with both state and federal agencies

Project-Related Accomplishments

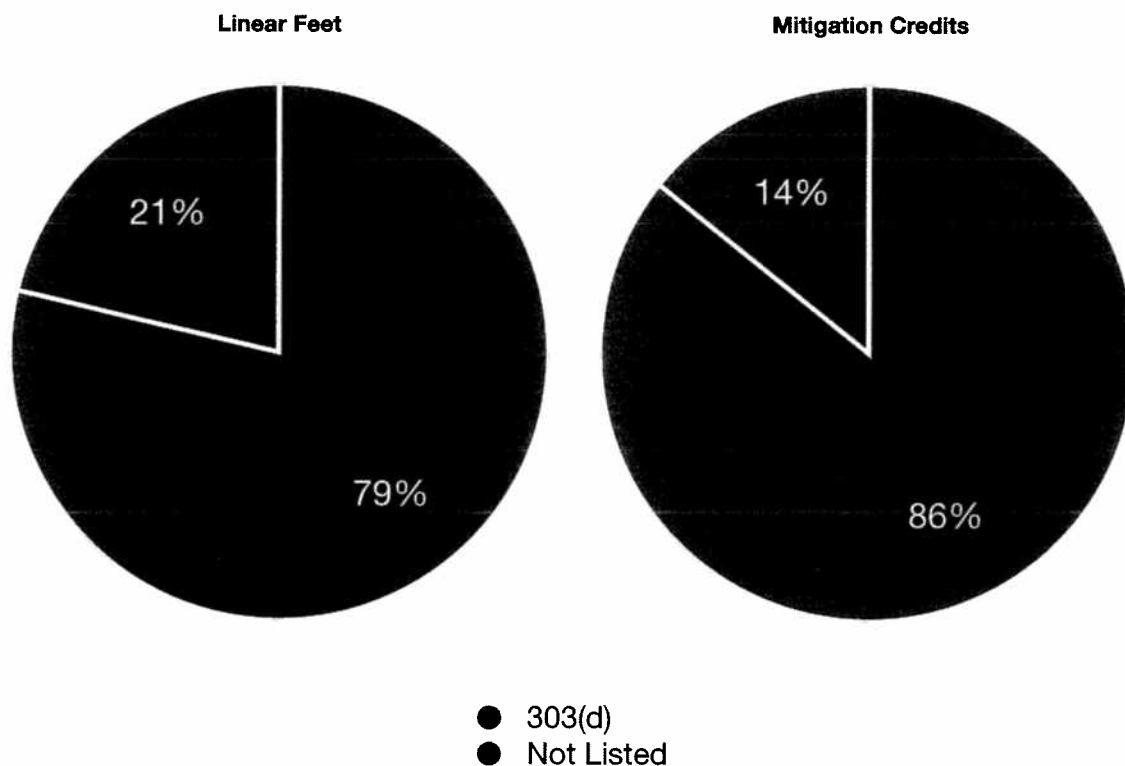
As of December 31, 2007, seventeen active restoration/enhancement projects (see table below) had been approved by the SMRT and were in some phase of development, implementation, or monitoring. These projects, located in fourteen different river basins (8-Digit HUC), will result in the restoration/enhancement and perpetual protection of approximately 135,280 linear feet stream generating approximately 82,211 mitigation credit units.

Project	Phase
Cole Creek	Monitoring
Crooked Creek	Monitoring
North Fork Mud Creek	Monitoring
Pond Creek	Monitoring

Project	Phase
UT Wolf River	Design
Burrough's Hollow	Monitoring
Pavilion Branch	Monitoring
Robinson Creek	Construction
Sevenmile Creek	Monitoring
Sugar Creek	Design
Turnbull Creek	Monitoring
West Harpeth River	Monitoring
Flat Fork	Design
Kyle's Ford	Monitoring
Marble Springs	Monitoring
Roseberry Creek	Construction
Third Creek	Monitoring

The TSMP gives preference to potential projects on 303(d) listed streams, especially streams with impairments to physical habitat. Where possible, the TSMP develops projects to offset or mitigate for impairments such as habitat alteration from channelization, siltation due to excessive bank erosion, pathogens or organic enrichment from unrestricted livestock access, or nitrates from degraded riparian buffers. The TSMP strives to identify and develop projects that have the greatest ecological benefit and impact on water quality.

Of the seventeen active SMRT approved TSMP projects, fourteen of these projects are located on 303(d) streams or in 303(d) watersheds. Approximately 106,379 linear feet or 79% of the total linear feet of restoration/enhancement projects occur in 303(d) watersheds while 28,901 linear feet or 21% of the total linear feet occur in non-303(d) watersheds. These figures represent 70,518 mitigation credits or 86% of total mitigation credits while 11,693 mitigation credits or 14% of total mitigation credits were generated in non-303(d) watersheds. These statistics are represented graphically below.



2007 Status Summary

Program History

In August 2002, the TSMP was established as Tennessee's first in-lieu-fee program. Administered by the Tennessee Wildlife Resources Foundation (TWRF), a 501c (3) non-profit, the TSMP is one mitigation alternative for impacts associated with \$404/401 water quality permits. At the discretion of the USACE and TDEC, permittees may purchase credits from a mitigation bank, purchase mitigation through an established in-lieu-fee program or provide their own on-site or near site mitigation. The TSMP accepts the responsibility for providing compensatory mitigation at the rate of \$200 per credit foot.

The TSMP's goal is to provide meaningful compensatory mitigation through the restoration and/or enhancement of degraded streams. By combining relatively small, incremental impacts within a geographic area, the TSMP can fund large-scale restoration/enhancement projects to improve in-stream and riparian habitat.

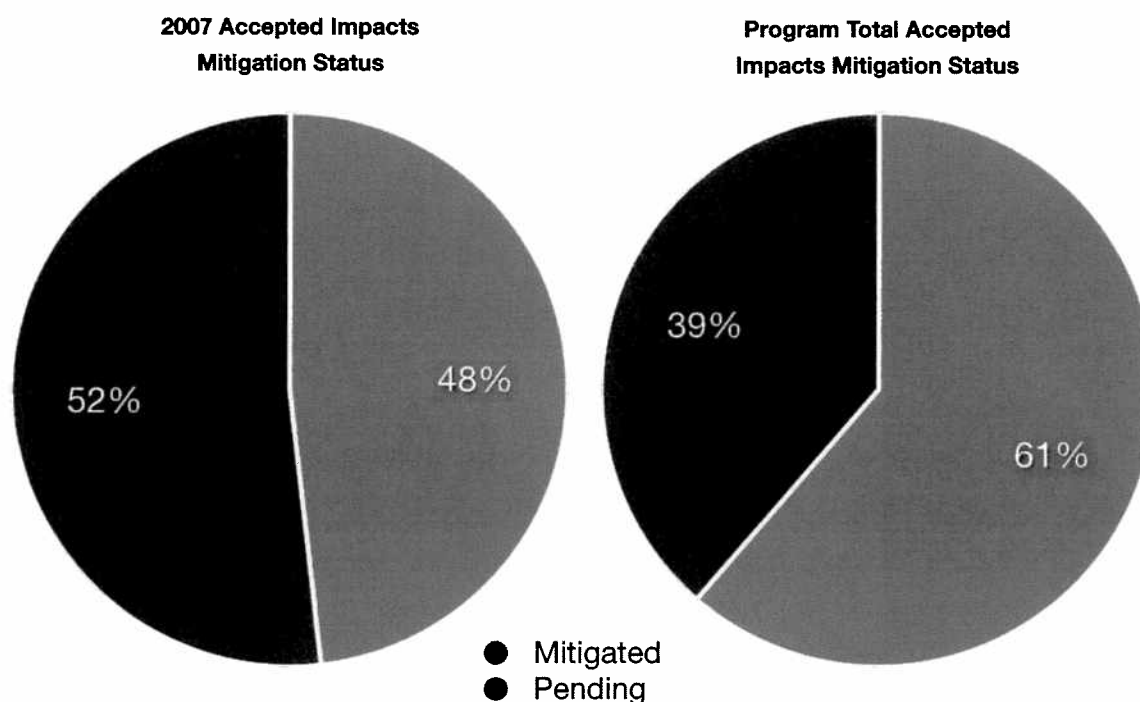
TSMP Partnerships

The TSMP has developed strategic partnerships with state and federal resources agencies, non-profit environmental organizations, and local municipalities to facilitate the identification, development, and implementation of mitigation projects. Through partnerships, the TSMP can provide funding for on-going watershed initiatives through stream restoration. TSMP partners are important stakeholders with a vested interest in a project. Partners typically assist with landowner coordination/negotiation as well as community education and outreach. By partnering, the TSMP and other

groups are able to leverage resources that enable both organizations to achieve programmatic goals while producing results that benefited both the landowners and the environment. Also, during 2007, the TSMP facilitated the development of strategic partnerships with both state and federal agencies to initiate the development of regional curves in Tennessee.

TSMP Permitted Impacts Summary

During 2007, the TSMP accepted the mitigation responsibility for 27 permitted impacts totaling 34,195 linear feet. Of these, 16 or 59% of the permitted impacts represent transportation projects while the remaining 41% represent other types of projects. A map of the impacts accepted during 2007 can be seen in Appendix A while a cumulative impacts map along with project locations can be seen in Appendix B. Appendix B also graphically represents the impacts and assigned TSMP project that has mitigated the specific impact. Of the 27 permitted impacts the TSMP accepted in 2007, 13 have already been either partially or fully mitigated and as of December 31, 2007, 100 of the 163 permitted impacts accepted since program inception had been either partially or fully mitigated by TSMP projects. This represents a total of 48% of the 2007 accepted impacts as well as 61% of all impacts accepted on or before December 31, 2007. These same statistics are represented graphically below.



TSMP Impact Assignment Summary

Beginning in 2006, the TSMP began to closely tie accepted impacts to active TSMP compensatory mitigation projects. The TSMP lists, as part of the project approval process, the accepted impacts that each proposed project will mitigate. This is done using several factors which include, but are not limited to, matching the following criteria as closely as possible to ensure that the TSMP is mitigating for impacts with appropriate and meaningful mitigation projects:

Proximity , including the 8-digit HUC or EPA Level III Ecoregion and distance in miles, age of impact, stream order(s) of impacts versus stream order(s) of mitigation and rural versus urban.

TSMF Financial Status

As of December 31, 2007, total assets equaled \$14,682,359.97 while liabilities equaled \$2,869.81 giving the trust fund an end of year balance of \$14,679,490.16. The trust fund received deposits totaling \$6,855,200.00 as well as earned a total of \$652,000.35 from interest bearing accounts as mandated by our MOA. Total cash expenditures for 2007 equaled \$4,814,947.91 of which \$4,438,108.82 were project related expenditures and the remaining \$376,839.09 were administrative expenditures. Detailed 2007 **accrued** project expenditures can be seen in the table below.

Project Name	2007 Expenditures	Expenditures to Date	End of Year Status
Cole Creek	\$3,323.10	\$445,210.28	Monitoring
Crooked Creek	\$158,714.76	\$947,836.67	Monitoring
North Fork Mud Creek	\$1,154,714.66	\$1,911,080.10	Monitoring
Pond Creek	\$11,813.07	\$341,932.50	Monitoring
UT Wolf River	\$3,937.49	\$3,937.49	Design
Burrough's Hollow	\$126,370.20	\$126,439.92	Monitoring
Pavilion Branch	\$514,292.08	\$616,532.64	Monitoring
Robinson Creek	\$162,554.07	\$162,554.07	Construction
Sevenmile Creek	\$24,349.03	\$241,863.34	Monitoring
Sugar Creek	\$3,898.73	\$3,898.73	Design
Turnbull Creek	\$19,609.02	\$304,630.24	Monitoring
West Harpeth River	\$921,893.46	\$1,678,871.77	Monitoring
Flat Fork	\$4,864.43	\$4,864.43	Design
Kyle's Ford	\$62,690.47	\$818,327.84	Monitoring
Marble Springs	\$15,220.73	\$442,703.92	Monitoring
Roseberry Creek	\$205,842.51	\$209,579.42	Construction
Third Creek	\$550,897.59	\$1,092,595.44	Monitoring
Yanahli	\$0.00	\$138,223.87	Suspended

Project Selection Process

A significant amount of time is allocated to project identification. In accordance with the MOA, the TSMF must evaluate impacts and identify suitable mitigation projects based upon the following criteria:

- Preference to the same Level III Ecoregion (Griffith, G.E., et.al., 1997), 6 digit HUC, or, ideally, same 8 digit HUC as the impacts.

- Generally locate projects on streams within one stream order as the impact streams.
- The ratio of urban to rural streams impacted should be generally replicated in project locations.
- All other factors being equal, priority should be given to 303(d) streams for which stream mitigation efforts may provide a means to alleviate the causes or sources of water quality and/or habitat impairment.

When evaluating a potential mitigation site, TSMP staff completes a habitat assessment based upon EPA's Rapid Bio-Assessment Protocol (RBP) as well as a morphological assessment to evaluate valley type, stream type, channel stability and stage of channel evolution. These assessments help to determine if enhancement or restoration measures are necessary. A concept plan is then developed for landowner review. Participating landowners must be willing to convey a perpetual conservation easement. If the landowner agrees to the approach outlined in the concept plan and the required easement boundary, then a scope, fee estimate, and construction budget is developed for SMRT approval. Under the TSMP's streamlined procedures, the entire process from identification to construction can now be completed in one year.

Status of TSMP Projects

As of December 31, 2007, the TSMP had seventeen active SMRT approved projects that were in some phase of development, implementation or monitoring. An overview of each approved active project can be found below.

Project Name	8 Digit HUC	SMRT Approval Date	Treatment type(s)	Project Length	Mitigation Credit Units
Cole Creek	08010209	November 2004	Restoration, Enhancement I	4,564	2,262
Crooked Creek	06040001	March 2006	Restoration	11,986	8,556
North Fork Mud Creek	06040005	October 2005	Restoration	17,950	9,905
Pond Creek	08010204	March 2006	Restoration	1,997	2,153
* UT Wolf River	08010210	September 2007	Restoration	9,297	6,613
Burrough's Hollow	05130106	November 2006	Restoration	940	661
Pavilion Branch	05130202	May 2006	Restoration	5,510	5,400
** Robinson Creek	06030003	June 2007	Restoration	4,860	2,843
Sevenmile Creek	05130202	November 2004	Enhancement II	3,900	1,300
* Sugar Creek	06040003	September 2007	Restoration	9,727	5,556
Turnbull Creek	05130204	November 2004	Enhancement II	4,430	1,476
West Harpeth River	05130204	May 2005	Restoration	15,435	9,150
* Flat Fork	06010208	September 2007	Restoration	12,940	11,469
Kyle's Ford	06010205	May 2005	Restoration	18,234	5,476

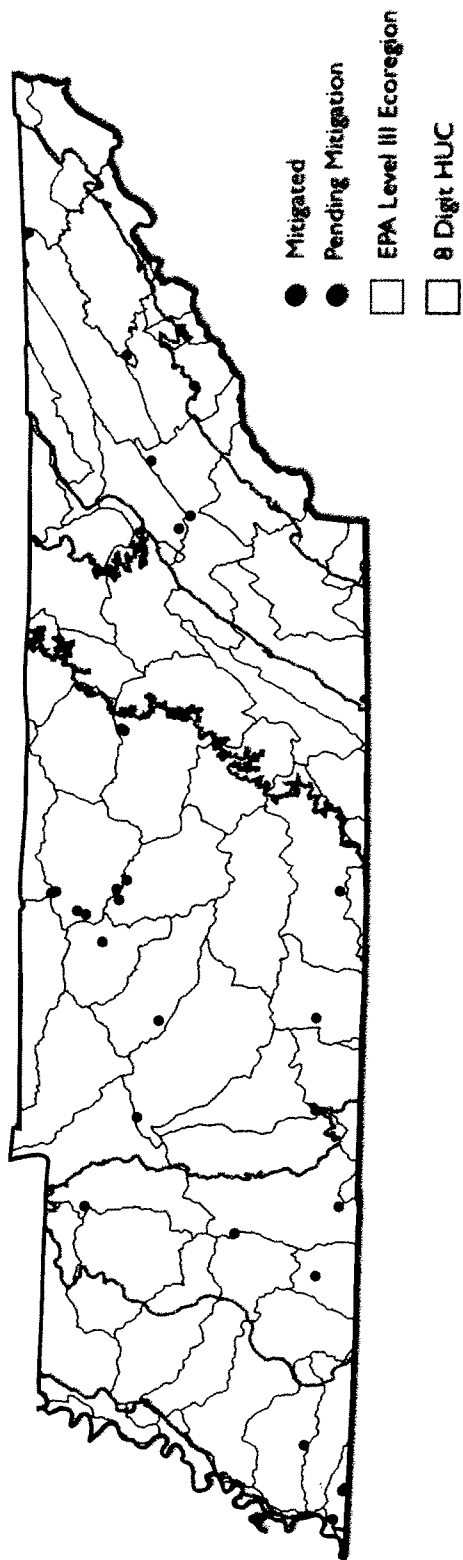
Project Name	8 Digit HUC	SMRT Approval Date	Treatment type(s)	Project Length	Mitigation Credit Units
Marble Springs	06010201	May 2006	Restoration	3,059	2,076
** Roseberry Creek	06010104	November 2006	Restoration	2,500	1,902
Third Creek	06010201	May 2005	Restoration	7,681	5,655

* Project that has not yet been constructed, the credits generated are estimates only. Actual credits will be calculated upon completion of construction and as-built conditions survey has been completed.

**Under construction. Credits are estimates until as-built survey is complete.

Appendix A

2007 Accepted Impacts



Appendix B

Projects and Assigned Impacts

